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13 UNITED STATES DISTRICT COURT

14 DISTRICT OF ARIZONA

15 In Re Bard IVC Filters Products  
16 Liability Litigation

17 No. MD-15-02641-PHX-DGC

18 **MOTION TO SEAL**  
19 and  
20 **NOTICE OF LODGING**  
21 **PLAINTIFFS' DOCUMENTS IN**  
22 **RESPONSE TO DEFENDANTS'**  
23 **MOTION FOR SUMMARY**  
24 **JUDGMENT AS TO LISA AND MARK**  
25 **HYDE'S CLAIMS**

26 **Motion to Seal**

27 In accordance with Section 25 of the Stipulated Protective Order [Doc. 269],  
28 Federal Rule of Civil Procedure 26(c)(1)(G), and Local Civil Rule 5.6, Plaintiffs move  
this Court for an Order sealing Plaintiffs' Response to Defendants' Motion for Summary  
Judgment as to Plaintiffs Lisa and Mark Hyde's Claims ("Response") and their  
corresponding Controverting Statement of Facts ("CSOF"). Plaintiffs' Response and  
CSOF contain personal healthcare information regarding Plaintiff Lisa Hyde that is  
protected under HIPAA and confidential under the Stipulated Protective Order,  
warranting protection from public disclosure.

29 Plaintiff's personal healthcare information is protected under the Privacy Rule of  
30 the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 45 C.F.R. §  
31 160, 164(A) & (E), as well as several state-law privileges. The knowing disclosure of

1 such information is prohibited by 42 U.S.C. § 1320d-6. This Court has already granted  
 2 the filing under seal of the same (or similar) information when the parties submitted their  
 3 respective bellwether submissions. [See Doc. 4366.]

4 Plaintiffs intend to meet and confer with Defendants to resolve confidentiality  
 5 disputes.

6 Accordingly, Plaintiff requests that the Court order the information and documents  
 7 lodged with Plaintiffs' Response and CSOFs be sealed pending final determination of  
 8 confidentiality.

9 **Notice of Lodging**

10 Pursuant to LRCiv 5.6(d), Plaintiffs submit this Notice of Lodging Certain  
 11 Documents under Seal Their Response and CSOF.

12 Plaintiffs provide notice that, pursuant to LRCiv 5.6(d), they have lodged with the  
 13 Court the Response and CSOF, which contain factual statements based on the contents of  
 14 documents that Defendants have claimed to be confidential. Resolution of those  
 15 confidentiality issues will determine which parts of the Response are appropriate for  
 16 sealing and which statements may be filed without redaction.

17 Defendants contend that information confidential and should be filed under seal.  
 18 Plaintiffs do not believe that the disputed documents warrant continued confidential  
 19 treatment as proprietary or sensitive trade secret information.

20 RESPECTFULLY SUBMITTED this 2nd day of October 2017.

21 GALLAGHER & KENNEDY, P.A.

22 By:s/ Mark S. O'Connor

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## **CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of October, 2017, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ *Deborah Yanazzo*